



HAMPTON ROADS TRANSIT

**Appeals Policies & Procedures for
ADA Complementary Paratransit Services
Effective February 15, 2002
Revised August 19, 2011**

§ I. The HRT “Unified Service Plan and Policy for Complementary Paratransit Services under the Americans with Disabilities Act (ADA)” adopted by the commission on July 12, 2001 requires the following composition and process for Appeals Panels:

“Appeals under this process will be determined by a three or five-member panel. One member shall be a staff member from HRT. A second member shall be a voting member of the Hampton Roads Transit Advisory Committee for Persons with Disabilities. The additional member(s) shall be from one of the member cities Advisory Committees, or Mayors Committees on Disabilities or Human Rights, agreed upon by the two other panel members, or, if none is available, another outside person(s) agreed upon by the two other panel members. A majority decision of the Appeals Panel shall be final and binding.”

In the interest of fairness to all participants, all individuals who serve on an ADA Appeals Panel for HRT Paratransit must agree to abide by the following:

1. Receive Appeals Panel training from HRT and legal representatives before participating on a Panel. As the need arises, panelists will receive additional training.
2. Must comply with all relevant laws, regulations and agree to follow processes and procedures established.
3. No individual involved in the original determination to deny eligibility or to impose a sanction shall have a decision-making role in the appeal of that decision (this is also known as “separation of functions”).
4. All hearings, deliberations, and decisions must be conducted with strict compliance with the need for objectivity, confidentiality, consistency, and documentation regarding the process and all participants.
5. Panel candidates or Panelists must promptly disclose any known or potential issues relating to conflict of interest, bias, or anything that might have the appearance of impropriety if they were to participate on an Appeals Panel.
6. Members of HRT staff or the ADA Advisory Committee may only serve in that role on a Panel, even if they are eligible for “third party” category.
7. There are no quotas for Appeals outcomes-the critical issues are independent judgment by Panelists and the integrity of the decision process.
8. Service on any Appeals Panel is voluntary and appreciated.

§ II. General Rules for Appeals:

1. All information regarding appeals must be readily available, including the availability of accessible formats upon request.
2. To the extent feasible, Appeals Hearings will be conducted on both sides of the HRT service area.

§ III. Eligibility (full or partial):

1. HRT defines a complete application as the application form; an in-person interview and functional assessment; and such outside professional verification and documentation (medical or otherwise) as is reasonably necessary for the eligibility determination. If, by a date 21 days following the submission of a complete application, HRT has not made a determination of eligibility, the applicant shall be treated as eligible and shall be provided Handi-Ride service until and unless HRT denies the application.
2. An appeal must be filed within 60 days of the date of a denial of an individual's application. No appeal requests will be accepted beyond 60 days after determination.
3. For denials of eligibility, HRT is not required to provide paratransit service to the individual pending the determination on appeal.

Note: If an individual has been granted conditional, trip by-trip, or temporary eligibility, but is appealing for full eligibility, the individual will be provided Handi-Ride service in accordance with their "limited" approved eligibility while the appeal is pending.

4. For re-certifications beginning in 2002: An unknown number of individuals are expected to receive reduced or eliminated eligibility, due to previous (and now expired) certification that was granted in excess of their transportation-functional disability(ies). In order to accommodate time to arrange for new mobility options, these individuals will be granted a one-week "grace period" to continue to receive Handi-Ride service beyond notification by HRT of their new eligibility status. Individuals who wish to appeal the new status are encouraged to expedite their Request, and HRT will attempt to expedite the Appeal Hearing. In the interim, Handi-Ride is only obligated to provide service to an individual in accordance with the results of the re-certification determination.
5. If HRT has not made a decision within 30 days of the completion of the appeal process, the individual shall be provided paratransit service, upon request, from that time until and unless a decision to deny the appeal is issued.
6. If an individual who has been denied eligibility wishes to re-apply, they must identify those circumstances or condition(s) which they believe have changed their ability to use fixed-route public transit.

§ IV. Sanction(s) for Behavior:

1. Service may be suspended, for a reasonable period of time, for any individual who establishes a pattern or practice of missing or late-cancelling scheduled trips, or for conduct that is violent, seriously disruptive, or illegal or that is prohibited on fixed route vehicles.

2. Trips missed by the individual for reasons beyond his or her control (including, but not limited to, trips that are missed due to HRT error or because of the individual's disability) shall not be a basis for determining whether a pattern or practice of missing scheduled trips exists.
3. An appeal must be filed within 60 days of the date of the Suspension Notice. No appeal requests will be accepted beyond 60 days after a Suspension Notice.
4. For suspension of service, the sanction is stayed pending the outcome of the appeal.
5. For conduct that is violent, seriously disruptive or illegal, a requirement for the individual to use a personal care attendant may be mandated pending a determination from the Appeal Panel as a compromise in lieu of suspension or termination of service.
6. If HRT has not made a decision within 30 days of the completion of the appeal process, the individual shall be provided paratransit service, upon request, from that time until and unless a decision to deny the appeal is issued.

§ V. Policies/Procedures for Appeals Hearings and Decisions:

1. Each individual who has the right to appeal any eligibility denial or sanction(s) will be notified, in writing, of that right, of the reason(s) for the decision, and of the appeal procedures.
2. Any eligibility determination or sanction may be appealed.
 - Request for appeal must be in writing and explain the specific reason(s) for disagreeing with the initial determination or sanction.
At a minimum: For eligibility: must include a description of the individual's functional limitation(s) and why they are unable to ride fixed-route. For sanctions: must identify reasons why the behavior was "beyond the individual's control" and/or why it was not a "pattern or practice".
 - A mandatory "Appeal Request Form" will be made available with the Notice to help structure Appellant's explanations.
 - Upon written authorization by the Appellant, another individual or organization may file an appeal on their behalf.
3. Upon receipt of Appeal, HRT will assemble the Appeals Panel and schedule the hearing.
 - To the extent possible, include expertise on the Panel particular to the disability or situation claimed.
 - Hearings should be scheduled as promptly as reasonably possible.
 - HRT reserves the right to "expedite" the scheduling of a hearing, in its discretion (e.g., re-certification, sanctions for behavior)
 - If unable to contact Appellant, HRT must document attempts and process followed. It is the responsibility of Handi-Ride applicants and passengers to keep HRT informed of their current mailing address.
 - Appeals should be conducted in person.
 - The reason for this is to mirror substance and process of the initial determination as much as possible.

- Upon written request by Appellant, the Appeals Panel will act solely upon written materials submitted. This serves as a waiver of the right to an in-person hearing.
 - For documented good cause, Appellant can request a postponement of the Appeal Hearing. However, if the individual requests such a postponement, they are not entitled to any further stay of sanction (e.g., suspension).
4. Appellant and Panelists should identify any “special needs” for hearing (e.g. accessible formats for materials, sign interpreter, audio-visual equipment, etc).
 - Transportation to and/or from the hearing is the responsibility of Appellant (if subject of hearing is eligibility, Handi-Ride will not provide transportation; if subject of hearing is sanction, Appellant may ride Handi-Ride, at their own cost, within their eligibility limits).
 5. Preparations-HRT is responsible for all records that have been submitted to HRT, for providing copies of Appellant submittals (if timely), and for ensuring logistics and accessibility of room. All hearings will be tape-recorded.
 6. Select Chairperson to conduct this hearing.
 7. Call to order and introductions of persons present.
 8. Present testimony and documents.
 - Appellant has burden of proof to state their case; HRT will rebut only “as needed”
 - Appellant has opportunity to present additional written materials and supporting information. Materials received by HRT at least one week before hearing will be reproduced by HRT, including accessible formats if needed.
 - If Appellant wishes to present additional written materials at, or less than one week before, the hearing, he or she must provide copies for all Panel members (including accessible formats, if needed), for the HRT attorney and one “for the record”.
 - Appellant has the opportunity to confront and present witnesses, within reasonable time limits.
 - To reduce burden on Appellant and Panelists, public portion of the hearing should be concluded within one hour, whenever possible.
 9. Deliberations
 - Closed to public, including Appellant
 - If additional information/review is needed, should minimize hardship to Appellant (including HRT to provide transportation to/from and subsequent meeting(s) deemed necessary, unless the continuance is at the request of the Appellant)
 10. Panel will document findings and reasons.

11. HRT will correspond results to the Appellant in writing within 30 days of the hearing, with reason(s) for the final decision.
 - If unable to contact Appellant, HRT must document attempts and process followed. It is the responsibility of Handi-Ride applicants and passengers to keep HRT informed of their current mailing address.
12. As stated in paragraph 2 “A majority decision of the appeals panel shall be final and binding”. Should the Appellant feel their case had not been treated objectively, they have the right to contact the Federal Transit Administration (FTA) to file a complaint.



For more information call 222-6087